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Espionage case heats up press-rights debate

Conviction of Navy analyst seen as restricting public's need to know

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The recent conviction of Samuel Loring Morison, a former US Navy intelligence analyst, on espionage and theft charges, has intensified debate on the issue of national security vs. the public's right to know.

The central question raised by the Morison case is: Does the United States now have, by judicial fiat, an Official Secrets Act (similar to laws in Great Britain that make it a crime to disclose government information without proper authorization)? If so, federal workers, the press, and others may be more easily indicted for leaking information the government deems vital to the nation's security.

Mr. Morison was found guilty of giving secrets to a British military journal, Jane's Defense Weekly. The information included US intelligence satellite photographs of a Soviet nuclear aircraft carrier under construction at a Black Sea shipyard, which were published by Jane's and widely distributed.

Many of those on both sides of the case, which was decided Oct. 17 by the US District Court in Baltimore, believe results of the trial should lead to two further actions:

- A congressional probe of the entire system of document and information classification with a view to striking a better balance between restrictions for defense purposes and disclosures in accord with the public's right to know. President Reagan, for example, used intelligence satellite photographs of Grenada, during a nationally televised 1983 news conference, to reveal the construction of a runway capable of handling Soviet and Cuban

military aircraft.

- A rethinking of how the Espionage Act of 1917 and its amended version, the Internal Security Act of 1950 are used.

Civil libertarians argue that if an appeals courts, and ultimately the US Supreme Court, doesn't overturn the Morison ruling, the press will be stifled in reporting many government matters which it now routinely covers.



Samuel Morison, Navy analyst
convicted under US espionage law

"It [the decision] is an Official Secrets Act," insists Morton Halperin, director of the Washington office of the American Civil Liberties Union (ACLU). "This is the first indictment and conviction in the history of the Republic for giving things to the press," he adds.

"If the Supreme Court upholds the statute [the Espionage Act of 1917 under which Morison was prosecuted]," Halperin says the "ACLU will go to Congress and ask for an amendment ... to make it clear that the Act doesn't apply to publication."

This alarmed reaction is countered by the Justice Department, whose spokesmen insist that the First Amendment is not threatened by the verdict. Assistant Attorney General Stephen S. Trott says his department has no hidden agenda aimed at hampering the media. "There has been a lot of arm-waving going on," adds Trott, who heads Justice's criminal division. "But this is not part of a plot to throw cold water on the press. We're fully mindful of the First Amendment." But the government official does see the decision as a clear signal to the public that "classified material must not be leaked."

Assistant US Attorney Michael Schatzow, chief pros

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ecutor in the Morison matter, also hopes the outcome will have a deterrent effect on government leaks. He downplays the possibility of widespread indictments against members of the press who disclose unauthorized information.

Robert Becker, staff attorney for the Reporters' Committee for Freedom of the Press — an organization that staunchly defends First Amendment rights — says he does not now see the Morison ruling as having a "chilling effect" on journalists.

"This trial won't stop government officials from leaking stuff to the media. And reporters are not likely to say: If I publish this, I might go to jail," Mr. Becker explains.

But he quickly adds that if the government ever tries to impose media restrictions, "there would be a tremendous outcry."

A Something of a middle ground is occupied by former Central Intelligence Agency chief Stansfield Turner. Admiral Turner feels that something must be done to plug the dike against the recent rush of leaks of classified data. But he also laments the "risks" of shutting off media access and debate about matters which the public should be aware of.

In his book, "Secrecy and Democracy, the CIA in Transition," Turner, a Carter White House appointee, criticized the Reagan administration for increased use of covert action around the world. Turner has also charged the government attempted to "censor" his book by deleting

material it termed classified.

In an interview about the Morison verdict, Turner said, "This administration has gone to extremes in trying to classify that which [should not be] classified."

Of Morison himself, he added: "This man is not a spy. There is no evidence of [his being a] Soviet agent."

Turner stresses the government should take action not only against low-level government employees but against "high-level people who leak things." But he says this action need not be criminal indictment in the courts. He suggests that proper alternatives could range from reprimands, to removal of "top secret" clearances, to dismissal.

The former CIA chief suggests that it might be appropriate to form a national commission to examine the causes of security leaks — including "improperly classified" information and restrictions on those government officials who require prior "official" approval of memoirs and published writings.

The Morison case was only the second time in history the US government used espionage laws to prosecute a public employee for disclosures to the press.

In the mid-1970s, during the Pentagon Papers case, similar charges were filed against Daniel Ellsberg and Anthony Russo who were accused of stealing and distributing secret government documents about the Vietnam War.

A mistrial resulted when Watergate-related instances of government misconduct against the defendants — including break-ins and several illegal wiretaps were revealed.